State of Missouri
Office of the Secretary of State
Division of Records Management and Local Records Division

Guidelines for Creating an Agency Social Media Policy

Approved and Recommended
by the State Records Commission November 13, 2013

Approved and Recommended
by the Local Records Board August 20, 2013

Update Log

| 9/28/18 | Updated AGO link; Added content on Social Media Capture |

Purpose

Built on the idea of collaboration and interaction, social media has come to impact how government employees interact with one another and the citizens of Missouri. Government agencies must not only look at social media platforms outside of their organization, but also at internal social media including wikis and other collaborative software. Depending on content, all, some or none of the information in these tools, may be construed as public records under Chapters 109 or 610 RSMo. If the content used in these tools constitutes a record, it is the responsibility of the agency that owns the media account, not the vendor, to maintain that record for its retention period.

Scope

The following guidelines are designed to provide assistance to state and local agencies when creating a social media policy for their offices and are intended to address records as defined by 109 RSMo on official and personal social media accounts. Employee's personal records and information which do not fall under the definition of a record per 109.210(5) RSMo. are outside the scope of these guidelines.

Throughout these guidelines, reference may be made to internal or external elements of social media. Whether a platform is used internally or for public consumption, many of the same concerns apply. Agencies are encouraged to determine if an external concern also applies to an internal system and vice versa.

Further Assistance

- The Division of Records Management assists agencies within state government with the continual process of renewing and revising their records management programs. State agencies can contact Records Management at 573-751-3319 or recman@sos.mo.gov.

- The Local Records Division advises, educates and encourages custodians of records in the use of sound records management and archival practices. Local agencies can contact the Local Records Program at 573-751-9047 or local.records@sos.mo.gov.

- The Missouri Sunshine Law portion of the Attorney General's website available at http://www.ago.mo.gov/missouri-law/sunshine-law is a resource to help Missourians understand Missouri Sunshine Law and its implications for Missouri's public and quasi-public governmental bodies, members of those bodies, those that conduct business

with a public governmental body and private citizens. The Attorney General's Office can be contacted at 573-751-3321 or attorney.general@ago.mo.gov.

What is Social Media?

Social media, also known as Web 2.0 is a catch-all term for a variety of interactive communication forums. Social media also describes internal collaborative business tools such as Google Docs, wikis, SharePoint and GoToMeeting. New social media products appear regularly and it is difficult to predict what may come next, but the basic definition will remain: Social media is a web/network-based means of creating communities for the purpose of sharing information.

Creating a Policy

The Office of the Secretary of State, Records Management and Local Records Divisions encourages government agencies to create an internal policy to govern how their social media accounts are created and managed. As these tools are designed to be used by anyone, and they are able to reach a worldwide audience, agencies must take great care in who they allow to create records and communicate on their behalf. A policy will inform staff of the type of content that may be communicated to the audience, how that content is approved, and who has the authority to enter into agreements. Finally, a policy needs to state how the social media tool is to be managed; this includes the retention of records.

Official Records per Missouri Statutes

Per 109.210 RSMo., a public record is any "document, book, paper, photograph, map, sound recording or other material, ***regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business***. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in sections 109.200 to 109.310 RSMo, and are hereinafter designated as "nonrecord" materials."

An email is an example of a format or "physical form" per 109.210 RSMo. The physical form of the record is irrelevant, rather, it is the content of the email, or any other record that determines how long it must be retained. The length of time a state record is to be retained can be found on the Missouri General Retention Schedule or an Agency Records Disposition Schedule that has been approved by the State Records Commission per 109.250(2). The length of time a local record is to be retained can be found on Records Retention Schedules that have been approved by the Local Records Board per 109.255 RSMo.

The location of the record also does not matter. Records stored within an agency, in a warehouse or on a third party server must be maintained for their full retention period. If an agency is unsure if information qualifies as a record, they should review the Division of Records Management's *What Is A Record?* web page located at:
http://www.sos.mo.gov/records/recmgmt/whatisarecord.asp.

Institutional Authority

Agencies must decide who has the authority to open a social media account on its behalf. In most cases, agencies must agree to some type of Terms of Use agreement in order to open a social media account. Agencies should approach Terms of Use, Terms of Service, etc. for what they are: legal agreements between the company that operates the social media tool and the agency. While many social media tools are free, there are costs, often in the form of granting the social media company a non-exclusive license to use the content posted, uploaded or used on the site. Agencies should discuss these issues with their general counsel and the individual in their office who handles software licenses.

Once tools have been selected, agencies must decide who will be responsible for its content; this may be a specific individual or a team. However, it must be clear who is accountable for specific actions such as posting content, responding to users or retaining records. Lines of authority are of special importance when using social media tools as some will only allow an account to have one username and password. If this information is shared it may be difficult, if not impossible, to identify who posted information or changed settings on the account. A policy should state what the ramifications are if someone responsible for the social media account fails in their responsibilities, or if an account is created or altered without the proper authority.

Ownership

A policy must identify the owner of the social media account and to whom its contents belong. Agencies should not automatically assume that an account is owned by them. The agency should retain documentation or agreements on ownership.

Access and Security

Usernames and passwords should only be known by staff authorized to access the social media account. Passwords should comply with your agency's Information Technology policy. Passwords should be updated before anyone who has access to the site leaves the agency or no longer needs access.

Communication

Social media tools, at their most basic level, facilitate communication. Depending upon the tool used, communication may only be one-way or have the ability to foster a dialogue internally or

between the agency and the public. Agencies should include in their policy what types of communication need to be vetted before they may be made available. This may vary from tool to tool. For internal social media tools, staff may be encouraged to post their ideas freely. On accounts where content is made available to the public, clearance through a supervisor or communications office may be necessary.

Agencies should keep in mind that acknowledging or forwarding messages on any service may be perceived as supporting a specific cause or topic. What may seem to be a small action may have a large effect on an agency. The policy should indicate whether this type of action will be allowed, and if so, who will be allowed to do so. Agencies should also have procedures in place if an action has caused confusion, becomes controversial or is otherwise escalated.

Confidentiality

Agencies should outline what information is considered confidential. Confidential information pertaining to an agency or individual should be kept so at all times. Statements on confidentiality should be reviewed by general counsel to ensure they are in compliance with Section 7 of the National Labor Relations Act as well as any other applicable state and federal laws.

Copyright

Agencies should outline how copyrighted material is to be handled. This includes whether copyrighted material is to be used at all, how to credit authors, and how information will be removed if necessary. If copyrighted material is used, agencies should maintain documentation proving they have permission to do so.

Disclaimers and Disclosures

Transparency is key to trust. Staff members who manage or contribute to social media sites should never represent themselves in a false or misleading way. Communications on social media sites should always designate who is making a comment, which agency they work for, and provide context to images, audio, and video if necessary.

If agencies allow personal opinions to be posted to social media sites, they should have a disclaimer so that the public knows they are not the official position of the agency. Also, if internal conversations, reports or other documents are to be made available through social media agencies should first ensure that the proper approval has been given.

Management

Some social media tools allow various settings to be changed. In some cases, a comments feature may be turned off or on. Other features could include the ability to filter comments for

language, or have a comment be approved before it is viewable on a site. Agencies need to include in any social media policy their rationale for regulating such speech and follow it diligently. Such regulations should also be reviewed by the agency's general counsel.

Records Retention and Sunshine Requests

Agencies should not rely on social media sites to retain their documents, as that responsibility lies with the agency. Posts, comments, polls, photographs and other content may be considered records. Agencies should identify staff whose responsibility it is to ensure these records are exported from the social media site or captured in some other way.

Content on social media sites is also subject to 610 RSMo., more commonly known as the Sunshine Law. Government records on a non-government owned server are subject to a Sunshine request, and legal discovery. Social media companies, however, are not obligated to respond to agency requests - only to what is agreed upon in the Terms of Use or Terms of Service. For this reason, it is important to monitor social media activity and capture all records.

Retention periods for records can vary from one day to permanent/transfer to the Missouri State Archives. The retention time will depend on the content of the record. If an agency is unsure how long a record needs to be retained state agencies should refer to the Missouri General Retention Schedule, their Agency Records Disposition Schedule or contact the Division of Records Management. Local agencies should refer to their Records Retention Schedules or contact the Local Records Division. Some social media sites give users the ability to export their information, while others require the use of third party tools. The responsibility to maintain the records resides with the agency, not the social media company.

If the site shuts down, crashes, or the vendor arbitrarily changes the Terms of Use, those potential records could be at risk, and without adequate preparation, there is nothing the agency can do to protect itself. Agencies must have a plan and process in place for how records will be saved.

Training

Do not assume that staff understands what social media is, or how it should be used. Social media is an umbrella term that covers many different types of tools. Staff should be trained on what is, and is not, considered appropriate. Remember that social media is a communication tool, one that can reach millions of people. Training should be mandatory for all employees who work with social media and its content.

Personal Accounts

It is strongly recommended that agencies advise their personnel to not use their personal accounts to conduct state or local business. Using a personal account does not nullify state records law. If public records are generated they must be maintained per their retention times, are subject to Missouri's Sunshine Law, and are considered discoverable information in case of litigation. The ramifications for violating this should be clear in the social media policy.

Auditing Social Media

Agencies should periodically audit their social media policy to ensure that it is being followed and to make any necessary updates.

Social Media Capture

There are methods provided within social media to capture and download account data. The data can then be retained by the Agencies through its retention period. This method is adequate for preserving any records from social media. The examples provided below are the steps taken for the most prominent social media platforms currently used by Agencies: Facebook, Twitter and Instagram.

The procedures outlined are current as of September 2018, should the user interface change, it is possible that the steps will change. Information on the changes should be available through the "Help" sections of the accounts.

How to Download a Facebook Account

1. Go to the account's settings in the upper right corner of the news feed. Select **"Your Facebook Information"** and then **"Download your information."**
2. Select either **"Entire Backup"** or **select a date range**. Select the format as **HTML** and the media quality as **HIGH.**
3. Leave everything in the "**Your Information**" portion **checked.**
4. Select "**Create File**".

It will take a few minutes for the content to download. Facebook will notify you when the file is ready to download. Save the file with an appropriate naming convention.

How to Download a Twitter Account

1. Open the "**Profile and Settings"** menu for the account by clicking on the account's profile picture on the top right of the screen.
2. Open the "**Settings and Privacy"** menu.

3. Under the "**Content"** heading, click on the **"Request your archive"** button. You should receive a notification that Twitter has received your request and will send a download link to your email.

Download the ZIP file sent to you and extract it, and go to your tweets folder. Save index.html to an appropriate place your computer with an appropriate naming convention. When you open index.html, you may view tweets by month and search for hashtags, Twitter accounts, or keywords.

How to Download an Instagram Account
1. Go to **Settings** under your profile.
2. Under the **Privacy and Security** section, select "**Data Download**."
3. Enter the email address you would like the data to be sent to and select "**Next**."
4. Enter in your Instagram password and select "**Request Download**."
5. A pop up will appear stating that it can take up to 48 hours for data to be retrieved and sent to the provided email account. The link you will receive is only active for four days, so make sure to download the files quickly.

Vendors

If an agency has a robust social media presence and requires larger data backups or more navigable files, there are several services and vendors that the agency can hire. The Secretary of State's Office does not require, recommend or endorse a particular service or vendor.